

**MINUTES FOR COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

March 25, 2003

DIVISION ONE

Court convened at 9:00 a.m.

Present: Spencer, P.J., Ortega, J., Vogel (Miriam A.), J., Mallano, J. and D. Nolan,
Deputy Clerk.

Each of the following:

B154947 People v. Huerta
B155471 People v. Rodriquez, et al.
B156202 People v. Manuel C.
B156791 People v. Martinez
B156896 People v. Randwillis
B157183 People v. Martinez
B157496 People v. Evangelisti
B158283 People v. Sebastian C.
B158307 People v. Crumsey
B158879 People v. Gipson
B159072 People v. Gentry
B159117 People v. Joshua W.
B150976 Retana v. 1-800 Flowers
B160073 DCFS v. Corina G.
B160189 DCFS v. Atasha H.
B160330 DCFS v. John J.
B160883 People v. Chadburn
B161663 DCFS v. Emma R.
B162148 McCutcheon v. WCAB

Argument waived, cause submitted.

DIVISION ONE (Continued)

B156587 Sargon Enterprises, Inc.
 v.
 Terry Donovan, et al.

Merits:
Argued by Jay S. Bloom for appellant and by George P. Schiavelli for respondents. Cause submitted.

B159015 Arvind Patel
 v.
 Talin Kazanjian, et al.

Merits:
Argued by Arvind Patel, appellant in propria persona. No appearance by George Besnilian for respondents. Cause submitted.

B156572 People
 v.
 Joe John Baldwin

Merits:
Argued by Katherine Greenebaum for appellant. Kim Aarons, Deputy Attorney General waived. Cause submitted.

B151991 In re Marriage of C.

 Idelle C.
 v.
 Ovando C.

Merits:
Argued by Idelle C. appellant in propria persona. Respondent waived argument. Cause submitted.

Mallano, J. leaves the bench.

DIVISION ONE (Continued)

B156430 People

v.

B157644 Christopher McMillan
Sheldon Otis Ray

Merits:

Argued by Richard Moskowitz, Deputy Attorney General for respondent.
Counsel for appellants waived argument. Cause submitted.

Mallano, J. returns to the bench.

Vogel, J. leaves the bench.

B157796 James H. Cowan & Associates

v.

Joanna Carson

Merits:

Argued by Howard Rutten for appellant and by William J. Weilbacher for respondents. Cause submitted.

Vogel, J. returns to the bench.

B156300 Eller Media Company

v.

Community Redevelopment Agency

Merits:

Argued by Paul A. Jacobs for appellant and by Kathryn Reimann for respondent. Cause submitted.

DIVISION ONE (Continued)

B155078 People
 v.
 Efrain Flores, et al.

Merits:
Argued by Vanessa Place for appellant Flores, by Roberta Simon for appellant Benitez and by Allison Chung, Deputy Attorney General for respondent. Cause submitted.

B158245 Renee Paul Collier
 v.
 Daniel J. Sweeney

Merits:
Argued by Daniel J. Sweeney for appellant and by Kevin W. Yeam for respondent. Cause submitted.

Ortega, J. leaves the bench.

B158126 Sam Sahab, et al.
 v.
 AMPCO System Parking, et al.

Merits:
Argued by Elizabeth L. Bradley for appellants and by Joseph A. Miller for respondent AMPCO and Kenneth C. Feldman for respondent Papiano et al. Cause submitted.

B144282 Tatung Company of America, Inc.
 v.
 Thomas Shen, et al.

Merits:
Argued by Chyong-Yao Ho for appellants and by Jan G. Levine for respondent. Cause submitted.

Ortega, J. returns to the bench.

DIVISION ONE (Continued)

B158733 Fred L. Reed, Jr.
v.
Charles R. Drew University of Medicine & Science, et al.

Merits:
Argued by Fred I. Reed Jr. appellant in propria persona and by Shell Duncan Grimes for respondents. Cause submitted.

B157708 Timothy A. Dewitt
v.
Tutor-Saliba Corporation, et al.

Merits:
Argued by Timothy A. Dewitt for appellant and by Martin G. Mamett for respondent Tutor-Saliba and Richard P. Chastang, Deputy County Counsel for respondent MTA. Cause submitted.

Spencer, J. leaves the bench.

B158449 People
v.
George Humberto Valdez

Merits:
Argued by George Schraer for appellant and by Carl N. Henry, Deputy Attorney General for respondents. Cause submitted.

Court adjourned.

B160330 People (Not for Publication)
v.
John J.

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Mallano, J.

DIVISION ONE (Continued)

B154961 People (Not for Publication)
v.
Hodges

The judgment is affirmed.

Ortega, J.

We concur: Spencer, P.J.
Vogel (Miriam A.), J.

B154947 People (Not for Publication)
v.
Huerta

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Ortega, J.

B161663 Los Angeles County, D.C.S. (Not for Publication)
v.
Emma R.

The order terminating Emma's parental rights is vacated and the cause is remanded to the dependency court with directions to order the Department to provide to the BIA and the Blackfeet tribe to suggest that Ephesians is an Indian child, the order terminating Emma's rights shall be reinstated and deemed affirmed. If a tribe determines Ephesians is an Indian child as defined by the ICWA, the dependency court shall conduct a new section 366.26 hearing in conformity with the provisions of the ICWA, and shall make such other orders as are necessary and appropriate.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Ortega, J.

DIVISION ONE (Continued)

B156202 People (Not for Publication)

v.
Manuel C.,

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
 Mallano, J.

B156791 People (Not for Publication)

v.
Martinez

The judgment is modified to reflect a stay of the sentence imposed on the count 2 burglary (16 consecutive months), and stays of the 2-year sentences imposed on counts 21, 22, and 23 (6 concurrent years) and, as modified, affirmed and remanded to the trial court with directions to issue a corrected abstract of judgment and forward it to the Department of Corrections.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
 Ortega, J.

B155075 Lasar, et al. (Not for Publication)

v.
FSR Brokerage, Inc., et al.

The appeal is dismissed with prejudice as to Defendants and Respondents Coldwell Banker Residential Brokerage Company, as successor-in-interest to FSR Brokerage, Inc., dba Fred Sands Realtors, Dianne Hahn, and Matthew Schroeder. All parties are to bear their own costs and attorney fees.

Ortega, J.

We concur: Spencer, P.J.
 Vogel (Miriam A.), J.

DIVISION TWO

B156574 People (Not for Publication)
v.
Rodriguez

The judgment is affirmed.

Nott, J.

We concur: Boren, P.J.
 Ashmann-Gerst, J.

B156618 People (Not for Publication)
v.
Smith

The judgment is affirmed.

Nott, J.

We concur: Boren, P.J.
 Doi Todd, J.

B159032 People v. Gutierrez (Not for Publication)

The judgment is affirmed.

Nott, J.

We concur: Boren, P.J.
 Ashmann-Gerst, J.

B160070 Los Angeles County, D.C.S. (Not for Publication)
v.
Sandra C.

The judgment is affirmed.

Nott, J.

We concur: Boren, P.J.
Ashmann-Gerst, J.

DIVISION TWO (Continued)

B157846 People (Not for Publication)
v.
Burns

The order of sentencing is reversed insofar as the trial court ordered the Penal Code section 667.5 subdivision (b) separate prison term enhancements “stay[ed].” The cause is remanded for limited resentencing so that the trial court can impose the section 667.5, subdivision (b) separate prison term enhancements or strike them pursuant to section 1385, subdivision (a). If the court strikes the enhancements, it shall make a written statement of reasons in its minutes explaining the reasons for granting appellant leniency. In all other respects, the judgment is affirmed.

Nott, Acting P.J.

We concur: Doi Todd, J.
 Ashmann-Gerst, J.

DIVISION THREE

B157316 People (Not for Publication)
v.
Fontanez

The judgment is affirmed.

Kitching, J.

We concur: Croskey, Acting P.J.
 Aldrich, J.

B159616 People (Not for Publication)
v.
Yoon

The judgment is affirmed.

Aldrich, J.

We concur: Klein, P.J.
Croskey, J.

DIVISION THREE (Continued)

B165623 Crayton
 v.
 S.C.L.A.
 CFF Properties et al

Filed order denying petition for rehearing.

DIVISION FOUR

B155287 Schwart Knapp (Not for Publication)
 v.
 Schwartz

The order is affirmed.

Curry, J.

We concur: Vogel (C.S.), P.J.
 Hastings, J.

B152979 Black, et al. (Not for Publication)
 v.
 Yuja, et al.

The judgment is reversed, and the matter is remanded for further proceedings in accordance with this opinion. The cross-appeal is dismissed. Appellants are awarded their costs.

Curry, J.

We concur: Vogel (C.S.), P.J.
 Hastings, J.

B160838 People (Not for Publication)
 v.
 Marshawn J.

For the foregoing reasons, the judgment is affirmed.

Epstein, J.

We concur: Vogel (C.S.), P.J.
 Hastings, J.

March 25, 2003 (Continued)

DIVISION FOUR (Continued)

B161997 People (Not for Publication)
v.
Miller

The judgment is affirmed.

Vogel (C.S.), P.J.

We concur: Epstein, J.
Hastings, J.

B160887 People (Not for Publication)
v.
Cooper

The judgment is affirmed.

Hastings, J.

We concur: Epstein, Acting P.J.
Curry, J.

B157188 People (Not for Publication)
v.
Walker

For the foregoing reasons, the judgment is reversed and the matter remanded for further proceedings in accord with this opinion.

Curry, J.

We concur: Vogel (C.S.), P.J.
 Hastings, J.

DIVISION FIVE

B157994 Beverly Foods, Inc. (Not for Publication)

v.

Pioneer Theatres, Inc.

The judgment is affirmed. Respondent(s) to recover costs.

Turner, P.J.

We concur: Armstrong, J.
 Mosk, J.

B153082 People (Certified for Partial Publication)

v.

Carney Morris

One of the two prior prison term enhancements imposed under Penal Code section 667.5, subdivision (b) is stricken, and the judgment is modified to reflect sentences of two concurrent terms of 26 years to life in prison. The clerk of the superior court is directed to prepare an abstract of judgment reflecting the striking of one of the one-year enhancements as described above, and reflecting a total presentence custody credit of 229 days (153 days of actual custody, plus 76 days of conduct credit) and to forward a certified copy of the abstract of judgment to the Department of Corrections. As modified, the judgment is modified.

Mosk, J.

We concur: Turner, P.J.
 Armstrong, J.

DIVISION SIX

B155038 People (Not for Publication)

v.

Saenz and Abanto

The judgments are affirmed.

Gilbert, P.J.

We concur: Yegan, J.
 Coffee, J.

March 25, 2003 (Continued)

DIVISION SIX (Continued)

B158645 People (Not for Publication)
v.
Brewer

The judgment is affirmed.

Coffee, J.

We concur: Yegan, Acting P.J.
Perren, J.

B158029 People (Not for Publication)
v.
Waddell

The judgment is affirmed.

Coffee, J.

We concur: Gilbert, P.J.
Perren, J.

B162045 Ziesmer (Not for Publication)
v.
Ventura County Superior Court
(The People, r.p.i.)

Let a writ of mandate issue directing respondent court to vacate its order rejecting Ziesmer's section 170.6 challenge as untimely and to enter a new and different order accepting the challenge for filing as of October 4, 2002. The order to show cause is discharged. The parties are to bear their own costs.

Gilbert, P.J.

We concur: Yegan, J.
Perren, J.

March 25, 2003 (Continued)

DIVISION SIX (Continued)

B154401 People v. Hurnblad (Not for Publication)

The judgment is affirmed.

Perren, J.

We concur: Yegan, Acting P.J.
Coffee, J.

B159263 People (Not for Publication)
v.
Washington

The judgment is affirmed.

Coffee, J.

We concur: Gilbert, P.J.
Perren, J.

B158004 Reynolds (Not for Publication)
v.
Freeman, et al.

Appellants have failed to demonstrate error. The order of the trial court is affirmed. Costs to respondent.

Coffee, J.

We concur: Gilbert, P.J.
Perren, J.

DIVISION SIX (Continued)

B150552 Dreyfuss, et al. (Not for Publication)
 v.
 Union Bank of California

The appeal is dismissed to the extent it challenges the March 16, 1998, order awarding attorney fees. The March 20, 2001, order is affirmed. The bank shall recover its costs on appeal.

Gilbert, P.J.

We concur: Yegan, J.
 Coffee, J.

B137593 Jones, et al. (Certified for Publication)
 v.
 First American Title Insurance Co., et al.

The judgment is reversed and the matter is remanded for further proceedings consistent with this opinion. Appellants Union Bank and First American shall recover their costs on appeal.

Gilbert, P.J.

We concur: Yegan, J.
 Coffee, J.

B156604 People
 v.
 Randolph

Filed order denying petition for rehearing.

B152130 People
 v.
 Reyes

Filed order denying petition for rehearing.